

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
FEB 14 2007


CLERK

UNITED STATES OF AMERICA, *

CR 06-40015

Plaintiff, *

vs. *

ORDER

EARL W. WRIGHT, *

Defendant. *

The Defendant has made a Motion to Appear by Video Conferencing at Sentencing, Doc. 20. The defense has cited *United States v. Saenz*, 429 F.Supp.2d 1109 (N.D. Iowa 2006) in support of the proposition which in turn cites *United States v. Alvarez-Pineda*, 258 F.3d 1230. In footnote 8 of *Alvarez-Pineda*, the Court notes that a Defendant in a non-capital case can waive the right to be present for the sentencing.

Case law is also clear that the oral pronouncement of the Court in open court is the sentence and the subsequent written Judgment is only written reflection of the actual sentence that was orally entered by the Court. Accordingly, in this case, the Defendant can file a written waiver of his right to be physically present in the Court for his sentencing and the Court will sentence the Defendant by video conference with the Defendant being present for the video conference in Shreveport, Louisiana. Due to the logistics involved in the Federal Courthouse in Sioux Falls, South Dakota, the Court, the court reporter, the court clerk, and Government counsel and defense counsel will be present in the grand jury room of the Federal Courthouse for the sentencing as that is where the video conferencing is available.

Accordingly,

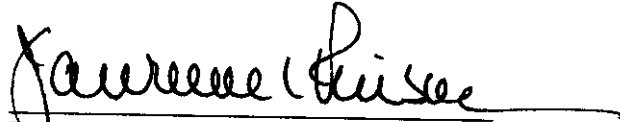
IT IS ORDERED:

1. That Defendant Earl W. Wright's Motion to Appear by Video Conferencing at Sentencing, Doc. 20, is granted.

2. That Defendant Earl W. Wright may appear by video conference for his sentencing hearing, upon the filing of a waiver of his physical presence in the courtroom in Sioux Falls at the sentencing hearing to be held in Sioux Falls, South Dakota.

Dated this 14th day of February, 2007.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: Sherry Margulies
DEPUTY